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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,464	04/15/2004	Richard P. Helliwell	200304269-2	8184

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EXAMINER

ENG, DAVID Y

ART UNIT

PAPER NUMBER

2155

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/825,464

Applicant(s)

HELLIWELL, RICHARD P.

Examiner

DAVID Y. ENG

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

Art Unit: 2155

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-38 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-14 of prior U.S. Patent No. 6,751,667. This is a double patenting rejection.

With respect to all method claims, claim 4 of both the instant application and the '667 patent are the most comprehensive method claims. They are compared as follow.

Claim 4 of the instant application.	Claim 4 of the '667 patent.
storing a predetermined identifier in said non-volatile memory and in said volatile memory;	storing a predetermined identifier in said non-volatile memory and in said volatile memory;
setting a bit string in said non-volatile memory to a value of all of a <b>first logical value</b> ;	setting a bit string in said non-volatile memory to a value of all of a <b>value of all ones</b> ;
setting a counter in said non-volatile memory to a value of a <b>second logical value</b> ;	setting a counter in said non-volatile memory to a value of a <b>value of zero</b> ;
setting a number subfield and a range subfield, together comprising an extension field in said volatile memory, <b>to the second logical value</b> ;	setting a number subfield and a range subfield, together comprising an extension field in said volatile memory, <b>to zero</b> ;
and generating a monotonic sequence of said unique identifiers by repetitively performing the steps of:	and generating a monotonic sequence of said unique identifiers by repetitively performing the steps of:
incrementing said number subfield;	incrementing said number subfield;
creating said unique identifier by concatenating said predetermined identifier and said extension field; and	creating said unique identifier by concatenating said predetermined identifier and said extension field; and
when said number subfield contains all of	when said number subfield contains all

the first logical value performing the steps of:	<b>ones</b> , performing the steps of:
incrementing said range subfield in said volatile memory; and	incrementing said range subfield in said volatile memory; and
resetting said number subfield to <b>the second logical value</b> ;	resetting said number subfield to <b>zero</b> ;
setting to <b>second logical value</b> , a next sequential bit in the bit string in said non-volatile memory; and	setting to <b>zero</b> , a next sequential bit in the bit string in said non-volatile memory; and
when said bit string in said non-volatile memory contains all of <b>the second logical value</b> , performing the steps of:	when said bit string in said non-volatile memory contains all of <b>zeros</b> , performing the steps of:
incrementing counter in said non-volatile memory; and	incrementing counter in said non-volatile memory; and
resetting said bit string to all of <b>the first logical value</b> .	resetting said bit string to all <b>ones</b> .

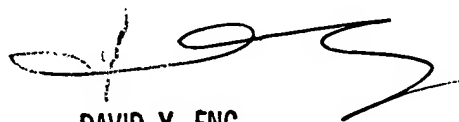
It can be seen that the ones and zeros of the '667 patent are being replaced by the first and the second logical values. The two claims are directed to the same invention in that zeros and ones are logical values. The other method claims are rejected for the same reason also because they are subset of claim 4.

With respect to the apparatus claims, claim 11 of both the instant application and the '667 patent are most comprehensive. They are compared as follow:

Claim 13 of the instant application	Claim 13 of the '677 patent
A system for generating a series of unique identifiers for use in a computer network, the system comprising:	A system for generating a series of unique identifiers for use in a computer network, the system comprising:
volatile memory containing one of the unique identifiers comprising a predetermined identifier and a field including a number subfield and a range subfield;	volatile memory containing one of the unique identifiers comprising a predetermined identifier and a field including a number subfield and a range subfield;
non-volatile memory containing a copy of said predetermined identifier and bit string representing a value of said range subfield; and	non-volatile memory containing a copy of said predetermined identifier and bit string representing a value of said range subfield; and
a processor coupled to said volatile memory and said non-volatile memory;	a processor coupled to said volatile memory and said non-volatile memory;

wherein said system generates a monotonic sequence of said unique identifiers by incrementing said number subfield;	wherein said system generates a monotonic sequence of said unique identifiers by incrementing said number subfield;
wherein when said number subfield contains all of a first logical value, a bit in the bit string in said non-volatile memory is set to a <b>second logical value</b> ; said range subfield is incremented; and said number subfield is reset to <b>the second logical value</b> ; and	wherein when said number subfield contains all ones, a bit in the bit string in said non-volatile memory is set to <b>zero</b> ; said range subfield is incremented; and said number subfield is reset to <b>zero</b> ; and
wherein, when said bit string in said non-volatile memory contains all of the <b>second logical value</b> , the counter in said non-volatile memory is incremented and the bit string in said non-volatile memory is set to all of the <b>first logical value</b> .	wherein, when said bit string in said non-volatile memory contains all <b>zeros</b> , the counter in said non-volatile memory is incremented and the bit string in said non-volatile memory is set to all <b>ones</b> .

It can be seen that the ones and zeros of the '667 patent are being replaced by the first and the second logical values. The two claims are directed to the same invention in that zeros and ones are logical values. The other apparatus claims are rejected for the same reason also because they are subset of claim 13.

  
DAVID Y. ENG  
PRIMARY EXAMINER